IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2560 of 1995

to

FIRST APPEAL No 2581 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-
and
Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

SPL.LAND ACQUISITION OFFICER

Versus

MAHENDRABHAI JETHABHAI PATEL

Appearance:

MR MUKESH PATEL AGP for Appellants (in First Appeals Nos.2560 of 1995 to 2569 of 1995.

MS RV ACHARYA AGP for Appellants (in Frist Appeals Nos.2570 of 1995 to 2581 of 1995) for Petitioners

MR GM AMIN for Respondents (in all matters)

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE D.H.WAGHELA

Date of decision: 21/03/2001

C.A.V. COMMON JUDGEMENT

(Per : MR.JUSTICE D.H.WAGHELA)

1. These appeals are preferred by the Land Acquisition Officer and the Executive Engineer from the common judgment and order of the learned Assistant Judge, Ahmedabad (Rural) in Land Acquisition Case No.312 of 1988 and other allied cases arising from the same award in LAQ Case No.13 of 1986.

2. The lands in question were acquired for the construction of Ahmedabad-Baroda Express Highway for which preliminary Notification under Sec.4 of the Land Acquisition Act (`the Act' for short) was published on 20.8.1986 and notification under Sec.6 was published on 17.2.1987. The award in the LAQ Case No.13 of 1986 was made on 23.6.1987 wherein the value of the different pieces of lands were fixed at the rates between Rs.7 and Rs.23 per sq. mtr. In Reference under Sec.18 of the Act, the claimants prayed for compensation at the rate of Rs.200 per sq. mtr. and sought to support the claim by oral and documentary evidence. The claimants had also claimed compensation for the wells, pipelines and buildings standing on the acquired land. The Government had not examined any witnesses by way of oral evidence but relied upon certain documents. After appreciation of evidence and consideration of the contentions of the parties, the Reference Court awarded compensation at the rates ranging from Rs.23 to Rs.57 per sq. mtr., as also additional compensation in respect of the wells, pipelines and the constructions situated on different parcels of land under acquisition.

3. It was submitted on behalf of the appellants that enhancement in the rate of compensation was on the higher side and not supported by any evidence on record; that oral testimony on behalf of the claimants ought not to have been relied upon and the basis of vicinity of the acquired land to the industrial estate and the price prevalent in that area was not incorrect. The learned Assistant Government Pleader further argued that the compensation in respect of wells and superstructures

ought not to have been awarded at all and that, in any case, the amounts awarded on those counts were excessive.

4. As can be seen from the impugned judgment, admittedly, the acquired lands are on the outskirts of the City of Ahmedabad and covered by the Development Plan of the Ahmedabad Urban Development Authority and were in the vicinity of the industrial estate of the Gujarat Industrial Development Corporation. The judgments and awards in respect of the lands acquired from the area of the same village were produced and, according to them, compensation at the rate of Rs.35 to Rs.40 per sq. mtr. was awarded. The witnesses for the claimants had given details of the land, well and superstructure for which compensation was claimed. Documentary evidence was produced to show the rate of Rs.170 per sq. mtr. at which the Gujarat Industrial Development Corporation was selling its plots in the adjoining industrial estate. A Civil Engineer and Approved Government Valuer was also examined to prove his valuation report in respect of the constructions in Survey Nos.568, 237, 566/1/2/, 522/2 and 559/1. Thus, keeping in view the relevant facts and circumstances, as also the potential value for industrial use and the earlier awards in respect of the lands in the adjoining area, compensation was awarded at the enhanced rates. Similarly, relying upon the evidence of wells, rooms, pipelines etc. situated in various parcels of lands under acquisition and relying upon the uncontroverted report of the Engineer and Valuer, appropriate amount of compensation is awarded by the impugned judgment. There is no substance in the submission of the learned Assistant Government Pleader that when the compensation was awarded at the enhanced rate for the lands in acquisition, additional compensation for wells, pipelines and superstructures ought not to have been awarded.

5. After careful consideration of the evidence and material on record, we did not find any infirmity or illegality in the impugned judgment and award. The learned Assistant Government Pleader for the appellants has also not pointed out any valid ground of challenge and has not relied upon any material or judgment to point out any illegality. Thus, there is no substance in these appeals and hence the same are required to be dismissed. Before parting with the matter, we have to painfully take note of the fact that thousands of rupees by way of Court-fees and valuable judicial time is wasted in these matters even as the casually drafted appeals were just filed and kept pending for five years without making any motion for even their admission.

6. In the result, in the facts and circumstances discussed hereinabove, the appeals are dismissed with no order as to costs.

Sd/-

(M.R.Calla, J.)

Sd/-

(D.H.Waghela, J.)

(KMG Thilake)